



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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December 23, 2009

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Comments on NOAA FEIS for "Comprehensive Ecosystem-Based Amendment 1 [CE-BA 1] for the South Atlantic Region; NC, SC, GA and Eastern FL; CEQ# 20090417; ERP# NOA-E91027-00

Dear Dr. Crabtree:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's / National Marine Fisheries Service's (NOAA/NMFS) Final Environmental Impact Statement (FEIS) for the subject "CE-BA 1" or "Amendment 1" for the South Atlantic Region. EPA previously provided written comments on the Draft EIS (DEIS) in a letter dated August 17, 2009.

EPA has focused our FEIS review on the NOAA/NMFS responses to our DEIS comments, which are found on page iv of the FEIS. We have reviewed our paraphrased comments and the NOAA/NMFS responses and have no additional comments on the four presented comments and responses. However, we find that our footnoted comment on Environmental Justice (EJ) was not included in these comments and responses. We therefore wish to reiterate this comment such that the NOAA Record of Decision (ROD) and future fishery EISs can address this further.

On page 3 of our August 17th letter on the DEIS, we stated that:

Overall, however, it appears that the rock shrimp fishery is small such that societal impacts would correspondingly also be small, even though economic and any Environmental Justice (EJ)² effects on fishers should be considered by NOAA/NMFS.

Footnote 2 for this sentence stated that:

In its social and economic effects discussions, the DEIS does not appear to address any potential EJ effects on fishers that may be impacted by CHAPC designations. The FEIS should address this based on disclosed fisher EJ information.

However, we note that apparently new information was added in the FEIS text in Section 7.6 and 3.4.2. Page 7-5 (Sec. 7.6) states that:

Due to the small number of vessels participating in these two fisheries and the small number of communities where they live and land the species of interest, specific communities involved in the golden crab and royal red shrimp fisheries could not be identified in this document without revealing confidential information.

If NOAA believes such demographic information is "confidential", we recommend that such instances be "defused" by only disclosing if most of the fishers are or are not minorities and/or low-income populations, i.e., a potential EJ population. If so, mitigative offsets may be appropriate if the proposed fishery regulations would significantly impact these fishers. The ROD should discuss this approach and how it compares to NOAA's mandate to considering fisher societal impacts pursuant to the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. Such a mandate would likely be broader than EJ demographics and extend to all impacted fishers.

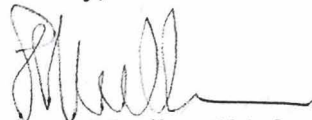
Moreover, page 3-47 (Sec. 3.4.2) states that:

Even at a county level, data confidentiality issues prevent an adequate description of potentially affected communities. The Council therefore requests comments from golden crab fishermen, their families, and associated dealers as well as royal red shrimp fishers to improve the social impacts analysis for these actions.

We agree that such requests may be useful in obtaining comments and demographic needs information. However, to promote such comments, NOAA should provide public outreach to fisher communities to encourage their comments and attendance at NOAA's public hearings and meetings on amendments and rulemaking announced through various media.

EPA appreciates the opportunity to review the FEIS. Should you have questions regarding these comments, feel free to contact Chris Hoberg of my staff at 404/562-9619 or hoberg.chris@epa.gov.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc: Dr. Paul N. Doremus – NEPA Coordinator (NOAA): Silver Spring, MD